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A Letter from the Executive Director

Barry A. Cassidy, Ph.D., PA-C



Welcome to the inaugural issue of the *Arizona Medical Digest*. We are re-launching this newsletter, previously known as *BOMEX Basics*, with a new name but the same goal of providing you with timely information about the Board, its workings, and other items of interest to Arizona physicians. We will send a copy of the Digest twice yearly by mail and anticipate providing updates in the near future on our website.

During the past few years, the Board initiated several changes. One of the most noticeable is the name change. In August 2002, the Board changed its name to the "Arizona Medical Board." The name change is symbolic of the constant changes the Board has made in the past and of the improvements it will continue to make in the future.

The Board is once again fully constituted and I was named Executive Director in July 2002. Under the Chairmanship of Dr. Patrick Connell,

the Board is researching ways to be more proactive and helpful to the public and physicians by finding ways to avert problems before they come to the attention of the Board.

A significant accomplishment of the Board was the adoption of a revised adjudication process. The new process affords quality investigations and expedited case resolutions, as well as greater physician due process. The Board also eliminated a three-year backlog of cases allowing the Board and staff to focus on the present and better plan for the future.

The Board's website, recently rated as one of the best in the country, now provides for on-line profile searches for physicians, residents and physician assistants. It will soon provide for on-line license applications and renewals as well as an on-line complaint tracking section.

The Board is currently preparing a set of Disciplinary Rules for public comment and

adoption into rule later this year. These disciplinary guidelines will provide insight into the usual course of discipline for matters that come before the Board. Other topics currently being investigated include policies on office-based surgery and closing a practice, an on-line "new physician orientation," methods for increasing communication with licensees, constituents, and the public, and a Physician Health Program.

I sincerely hope that you find the *Arizona Medical Digest* informative and useful. We will strive to include subject matter that is important and of interest to you. You will be able to access this newsletter and other articles of interest in the near future on the website. The Board welcomes your comments, questions, and suggestions.

The Arizona Medical Board and staff extend to you the best of wishes as the New Year begins.

New Adjudication Process—What it Means to You

In the past year, to increase due process and improve investigations, the Board implemented a new adjudication process involving investigations, a Staff Investigational Review Committee (SIRC), and full Board review. The Investigative staff determine complaint jurisdiction, validate complaint, gather evidence, and conduct interviews and medical expert review. The SIRC reviews the case and makes a determination of

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BOARD MEETING DATES

February 12-13, 2003

April 2-3, 2003

June 11-12, 2003

August 13-14, 2003

October 8-9, 2003

December 10-11, 2003

Medical Records Q & A

There are a number of pertinent State laws referring to unprofessional conduct as it relates to medical records and a physician's responsibility for retaining those records and making them available to the patient. As an aid to physicians and others who frequently call the Board's offices, we have prepared the following questions and answers concerning medical records:

Release of Records:

- Q) What authorization should I require before releasing records?
- A) It depends upon who is making the request. To make records available to patients and health care decision makers, a physician must receive a written request. The statutes do not specify the content of the request except for the specific release required for all HIV information (A.R.S. § 36-664) and drug or alcohol treatment information. You should require proper authorization to release medical records from the patient, the minor patient's parent, the patient's legal guardian, or the patient's authorized representative. There are instances where a physician may release medical records to third parties without the patient's authorization (A.R.S. § 12-2294).
- Q) To whom am I required to provide medical records?
- A) Upon receipt of the appropriate authorization, you must promptly provide medical records to a physician assistant, a nurse practitioner, a licensed allopathic physician, a licensed podiatrist, chiropractor, naturopathic physician, osteopathic physician, or homeopathic physician; the patient or other person designated by the patient; or the patient's health-care decision maker or person designated by the healthcare decision maker unless access is limited by the patient. A.R.S. § 32-1401 (24)(rr).

Charging for Medical Records:

- Q) May I charge to copy the record?
- A) According to A.R.S. § 12-2295, you may not charge for medical records provided to the following:
 - Another healthcare provider for the purpose of providing continuing care to the patient to whom the medical record pertains.
 - The patient or health care decision maker or surrogate of the patient to whom the medical record pertains for the demonstrated purpose of obtaining health care.
 - The Arizona Medical Board or an officer of the Department of Health Services or the local health department requesting records pursuant to section A.R.S. § 36-662.

Except as otherwise outlined above, and except as otherwise provided by law, you may charge a "reasonable fee" for the production of records. "Reasonable fee" is not defined.

Timeframes to Provide Medical Records:

- Q) How quickly must I provide copies of medical records once I receive a request?
- A) You must make the records "promptly available" and it is unprofessional conduct under the Medical Practice Act to fail to do so. "Promptly" is not defined in the statutes, and what is prompt may depend upon the circumstances.

What Records to Provide:

- Q) If a patient's records consist of records created by me and records received from other doctors, must I provide copies of all records or only those records created by me?
- A) A.R.S. § 12-2291 (4) defines medical records as "all medical records held by a health care provider, including medical records that are prepared by other providers."

Exceptions to Providing Medical Records:

- Q) Are there any exception to the requirement to provide medical records?
- A) Yes, but the exceptions are narrow. You must provide the records unless the attending physician or psychologist determines and notifies the health care provider in possession of the records that the patient's access to the record is contraindicated due to treatment of the patient for a mental disorder as defined in A.R.S. § 36-501. "Contraindicated due to treatment for a mental illness" is not defined in the statute. Your professional judgment must be used in determining whether a given patient fits within the narrow exception outlined in A.R.S. § 12-2293

Record Retention:

- Q) How long must I retain medical records on a patient?
- A) If the patient is an adult, the records must be retained for at least seven years after the last date the adult patient received medical or health care services from that provider. If the patient is a child, the records must be retained either for at least three years after the child's eighteenth birthday or for at least seven years after the last date the child received medical or health care services from that provider, whichever date occurs last.
- Q) Do I have to retain medical records if I retire or sell my practice?
- A) You must take reasonable measures to ensure that your records are retained according to the record retention law. Reasonable measures are not defined in statute.

Need information concerning medical records?

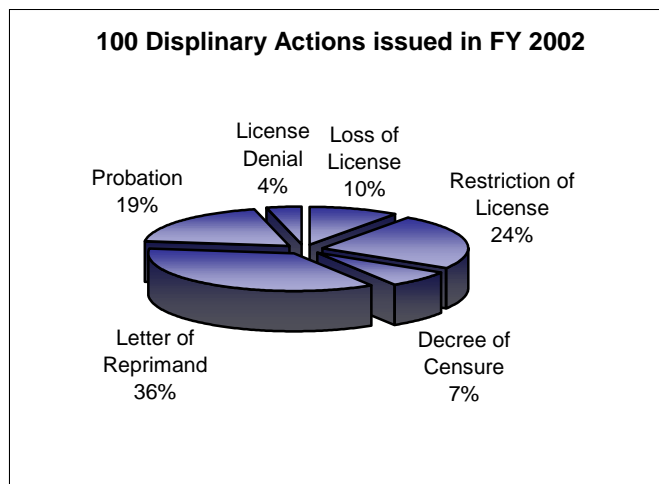
The text of these statutes can be found in the Medical Directory and Resource Handbook 2002 – 2003 and at www.azmdboard.org

Frequent Complaints Before the Board

- Inappropriate prescribing
- Using controlled substances
- Signing blank, undated or predated prescription forms
- Charging a fee for services not rendered
- Fee splitting
- Excessive fees
- Engaging in sexual conduct with a current patient or with a former patient within 6 months of last visit
- Making a false or misleading statement to the Board
- Failure to establish doctor-patient relationship before prescribing
- Failure to maintain adequate records or make them available to the patient

Adjudication Process *(Continued from page 1)*

merit, and may also determine if additional interviews need to be conducted or if additional evidence is needed prior to referral to a Full Board meeting. The Board conducts formal interviews, takes final disposition on all cases, and conducts all other business requiring full Board review. This new process has enabled the Board to be much more efficient. The average investigation completion time has dropped from 461 days to 226 days and the investigator caseload has dropped from an average of 85 cases to 54. In FY 02, the Board issued 100 disciplinary actions involving 99 physicians, which is less than 1% of the Board's licensee population. This chart shows the nature of these 100 actions.



Non-Disciplinary Outcomes:

93% of all case resolutions were non-disciplinary

Of Non-Disciplinary Outcomes:

82% were Dismissals

9% were Advisory Letters

2% were Non-Disciplinary Orders (Practice Limitations, Medical Probation, etc)

7% of all case resolutions were disciplinary

So you have a new Address or Telephone Number...

Here's what you **MUST** do:

- You must notify the board in writing within 30 days of any change of office or home address and phone number.
- Failure to do so may result in a monetary fine of \$100 plus the costs incurred by the Board to locate you.

You should also understand that according to A.R.S § 32-3801, the Board will make public a professional's residential address and telephone number(s) if they are the only address and number(s) of record.

You can update your information several ways:

- Complete an address change form found in your 2002-2003 Medical Directory and Resource Handbook, at www.azmdboard.org, or on the back of this newsletter.
- Email completed form to renewals@azmdboard.org
- Fax completed form to Arizona Medical Board, Fax # (480) 551-2704.

Did you know?

The following can be found on the Arizona Medical Board's website www.azmdboard.org:

- Meeting Agendas
- Statutes and Rules
- Contact information for other agencies
- Meeting Minutes
- Physician Profiles
- Schedule of fees
- Map of Our Location
- Recent Board Actions
- Links to other state medical boards

The Board's main phone number is (480) 551-2700 and the main fax is (480) 551-2704.

The Arizona **Medical Digest**

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Fax: (480) 551-2704
Website: www.azmdboard.org
Email: questions@azmdboard.org

Arizona Medical Board—Change of Address Form

In compliance with A.R.S. § 32-2527(A) please record the following address changes:

Office Address: _____

Office Phone: _____
Office Fax: _____
Office Email: _____

Home Address: _____

Home Phone: _____
Home Fax: _____
Home Email: _____

Mailing Address: _____

Other Phone: _____

Name

AZ License #

Effective Date

Signature

Today's Date

Send completed form to: Arizona Medical Board
9545 E Doubletree Ranch Road
Scottsdale, AZ 85258

Or fax to: Arizona Medical Board
Attn: Renewals
(480) 551-2704
